



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

June 16, 2020

VIA UPS - 1ZA43F71A693742026
SIGNATURE REQUIRED

Mr. Kenny Adkins
Kenny Adkins Logging
642 Phillip Kuhn Road
Oak Hill, Ohio 45656

RE: **Section 308 Request for Information**

Dear Mr. Adkins:

The U.S. Environmental Protection Agency, Region III ("EPA") is contacting you about potential unauthorized activity related to work you completed on the property located at approximately the intersection of Route 2 and Sugar Run Road in Ravenswood, Jackson County, West Virginia (parcel id # 18-06-0004-0011-0005; 18-06-0004-0011-0006; and 18-06-0003-0007-0000) (the "Site"), within the U.S. Army Corps of Engineers ("USACE"), Huntington District. The Site is further identified on the map attached hereto as Exhibit A.

Section 308 Request for Information

EPA is seeking information pursuant to the authority granted to it under Section 308 of the Clean Water Act ("CWA"), 33 U.S.C. §1318, and the regulations promulgated thereunder, regarding properties on which Kenny Adkins Logging completed work. This Information Request is enclosed.

For each and every request, if you have reason to believe that there may be a person(s) who may be able to provide a more detailed or complete response to such request or may be able to provide additional responsive documents, then as a part of your response to such request, identify each such person and the additional information or documents which such person may be able to provide. Furthermore, for each and every response, if information or documents responsive to such request are not in your possession, custody or control, then as part of your response to such request, identify each person from whom such information or documents may be obtained.

EPA is authorized under Section 308(a) of the Act, 33 U.S.C. § 1318(a), to require owners and/or operators of any point source to, among other things, provide certain information, establish records and make such reports as necessary to carry out the objectives of the Act. Pursuant to Section 308 of the Act, 33 U.S.C. § 1318, you are directed to provide to EPA with the information requested in the enclosure. You should be aware that failure to provide the requested information or providing misleading or false information may result in the issuance of orders requiring compliance, the imposition of civil or administrative penalties, or the imposition of criminal fines or penalties. The information you provide may be used by EPA in administrative, civil, or criminal proceedings.

You are entitled to assert a claim of business confidentiality covering any part or all of the information, in a manner described in 40 C.F.R. § 2.203(b). Information subject to a claim of business confidentiality will be made available to the public only in accordance with 40 C.F.R. Part 2, Subpart B. Unless a claim of business confidentiality is asserted at the time the requested information is submitted, EPA may make this information available to the public without further notice to you. This inquiry is not subject to review by the Office of Management and Budget pursuant to the Paperwork Reduction Act of 1980, 44 U.S.C. Chapter 35. (See 5 C.F.R. § 1320.3(c)).

Your response is required within **thirty (30) calendar days** of receipt of this letter. This request is of an ongoing nature. Should any additional information or documentation become available after provision of the responsive documents, then you are under an obligation to provide such additional information or documentation to EPA.

Should you have any questions regarding this information request, please contact Jennie Brancho, at (215) 814-2087 or brancho.jennie@epa.gov. Thank you for your attention to this matter. I strongly encourage you to give this matter your full consideration.

Sincerely,

Richard A. Rogers, Chief
Water Branch
Enforcement & Compliance Assurance Division

Enclosures (2)

cc. Michelle Staley - USACE, Huntington District (Michelle.M.Staley@usace.army.mil)
Jeremy Bandy – WVDEP (Jeremy.W.Bandy@wv.gov)
Jennie Brancho – EPA (brancho.jennie@epa.gov)

INFORMATION REQUEST

The United States Environmental Protection Agency, Region III (“EPA”) seeks the information described herein pursuant to Section 308 of the Clean Water Act, 33 U.S.C. § 1318. The Instructions and Definitions for responding to this Information Request are as follows:

A. Instructions & Definitions

1. A separate narrative response must be made for each question set forth below, and for each subpart of each question.
2. Precede each answer with the corresponding number of the question and subpart to which it responds.
3. Provide all information and documents in your possession which relate to the responses given. With respect to each document, identify the date, author, addressee, current location, and custodian and identify the question or subpart to which it relates.
4. The term “document” refers to “writings,” “recordings” and “photographs” as those terms are defined in Rule 1001 of the Federal Rules of Evidence. The term “document” also refers to electronically stored “writings,” “recordings,” “emails,” and “reports,” among other things, created in the ordinary course of business and that are relevant to the operation or business undertakings of Kenny Adkins Logging. Documents should be produced as they are kept in the usual course of business and if in electronic form, in a format that can be accessed and read by EPA.
5. If any question cannot be answered in full, answer to the fullest extent possible along with an explanation of why the question cannot be answered in full. If your responses are qualified in any manner, please explain.
6. If information or documents not known or not available to you as of the date of submission of your response to this request should later become known or available to you, you must supplement your response to EPA. Moreover, should you find at any time after the submission of your response that any portion of the submitted information is false or misrepresents the truth, you must notify EPA of this fact as soon as possible and provide a corrected response.
7. The terms “you” and “your” refers to Kenny Adkins Logging (hereinafter “Respondent”).
8. The term “Site” refers to those properties located approximately at the intersection of Route 2 and Sugar Run Road in Ravenswood, Jackson County, West Virginia (parcel id # 18-06-0004-0011-0005; 18-06-0004-0011-0006; and 18-06-0003-0007-0000)(see Exhibit “A”).

9. The term “pollutant” means dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial municipal, and agricultural waste, discharged into water.
10. The term “wastewater” refers to the discharge of water from the Site.
11. The term “work” includes, but is not limited to, the grading, mechanized land clearing, grubbing, filling, draining, and other land disturbing activities conducted on the Site.
12. The following certification must accompany each submission pursuant to this request and must be signed by a representative authorized to respond on behalf of Respondent:

“I certify that the information contained in or accompanying this submission is true, accurate, and complete. As to the identified portion(s) of this submission for which I cannot personally verify its truth and accuracy, I certify as the company official having supervisory responsibility for the person(s) who, acting under my direct instructions, made the verification, that this information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment.”

13. All information shall be submitted within thirty (30) days of receipt of this Request for Information, by email, to:

Jennie Brancho (3ED31)
SDWA & Wetlands Section
Enforcement and Compliance Assurance Division
United States Environmental Protection Agency Region III
Brancho.jennie@epa.gov

If you are unable to send requested documentation electronically, please contact Jennie Brancho via phone or email to discuss alternate delivery methods. In your message as well as your submission, please indicate the specific information requested by EPA that you are unable to provide electronically.

B. Request for Information

Respondent is hereby required, pursuant to Section 308 of the Clean Water Act, 33 U.S.C. § 1318, to submit the following information pursuant to the Instructions set forth above:

1. State the name, address, telephone number, email address and occupation of each person providing responses, or contributing information to the responses, to these requests for information.

2. Identify your business form. If a corporation, please give the corporation's date and state of incorporation, the name and address of its agent for service of process, its address and the nature of its business. If an LLC or sole proprietorship, please give the initial date of filing with the state.
3. Describe the nature of your business with regards to activity performed at the Site. Described work conducted at the Site. At any time did you own, control, or manage the Site in the past five years? If you were contracted to conduct activity and/or work at the Site, describe the nature of your contract, person or entity with which you contracted, and the nature of the work you were contracted to do.
4. State each instance when work was performed at the Site. State the start date and duration of such work. State the reason any such work was undertaken. State who ordered, directed, supervised, and funded, and/or accomplished the work, or any part thereof. State the date upon which the work was completed. If work is still ongoing, describe the nature of the work still to be completed. Provide with specificity the area in which you conducted activity or work. If it was more limited than what is identified as the Site boundaries, identify those areas. Provide a map if one is available.
5. State the intended purpose or goal of the work being conducted on the Site. Provide any applications, plans, and any other documents that relate to the intended uses of the Site, including but not limited to tax maps, zoning requests, appraisals, plats or plots, and engineering drawings. Provide the dates of any and all meetings or correspondence with the applicable City and County planning and zoning authorities regarding any such uses or intended uses. Provide copies of any records or notes of meetings with city and/or county officials as well as a description of what was discussed at each meeting.
6. Since work began on the Site, did anyone acting on Respondent's behalf have any communications, either verbally or in writing, with any representatives of the U.S. Army Corps of Engineers ("Corps") or the West Virginia Department of Environmental Protection ("WVDEP") with regard to work at the Site or compliance with the Clean Water Act at the Site? If so, state the name and telephone number of the person(s) with whom you communicated or with whom communications were made on your behalf. Provide copies of any and all written communications between you and anyone acting on your behalf and any representatives of the Corps or WVDEP, including all notes, memoranda, transcriptions, or other documents memorializing any conversations by and between you and anyone acting on your behalf and any representatives of the Corps or WVDEP.
7. Provide copies of all permits or other authorizations provided by any governmental entity (federal, state, local) to conduct work and/or operations at the Site, including any permits obtained by you or anyone acting on your behalf for the discharge of pollutants to waters of the United States at the Site.
8. Provide copies of all approvals or authorizations from the Division of Forestry (including

any forest management plans) issued to Respondents for any activities or operations conducted at the Site.

9. Identify the entities who are party to any contract or agreement to perform work at the Site; provide the name(s), address(es), telephone numbers and email addresses of the individual(s) or contractor(s) responsible for conducting the work. Provide details of any and all agreements, or parts thereof reduced to writing; describe any oral agreements.
10. Provide copies of all documents related to work conducted at the Site. Such documents should include but not be limited to plans, drawings, specifications, permits, agreements, contracts, receipts, invoices, checks, and other documents which relate to work at the Site or billing or compensation for work at the Site.
11. Describe the original Site conditions prior to the work done at the Site. Provide copies of all documents or physical data, or parts thereof, that assess the extent of any waters of the United States or that determine or investigate any parameter used by the U.S. Army Corps of Engineers to determine the existence of wetlands or streams, including documents given to or prepared on behalf of or at the request of Respondents.
12. With regard to the streams, whether perennial or intermittent, creeks, seeps, fissures, drainage ways, impoundments, dams, ponds and any other water bodies whether flowing or static, please state: a) the origin of the water body; b) the date or dates on which it was impacted, including but not limited to, being buried, channeled, relocated, culverted, piped, or impounded; c) the names of the contractors or other entities that performed the work; d) the extent of the disturbance; and e) the exact nature of the disturbance.
13. What is the length of stream in linear feet that has been buried, culverted or piped as a result of the logging, grading, or other work done at the Site? For each stream reach, include the name of the stream, if applicable; stream order; flow regime; and indicate location on a map.
14. Identify any and all efforts, including Best Management Practices (BMPs) for silviculture and forestry operations and erosion and sediment controls, by you or anyone acting on your behalf with respect to activities performed at the Site. Identify all persons responsible for BMP implementation and construction and maintenance of erosion and sediment controls at the Site.

Exhibit A: Site Map

Approximately at the intersection of Route 2 and Sugar Run Road in Ravenswood, Jackson County, West Virginia



*Printed on 100% recycled/recyclable paper with 100% post-consumer fiber and process chlorine free.
Customer Service Hotline: 1-800-438-2474*